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Remarks

Request for withdrawal of the Office Action of 1/14/04 and issuance of a new first action is requested.

The instant communication fails to address the second supplemental amendment filed 12/31/03.

The instant invention is directed to an ice making and dispensing machine which has as a primary function the ability to support an ice chest beneath the ice delivery chute so that the machine may be activated to deliver ice directly into the ice chest. Upon filling, the ice chest is closed providing an insulated container for the ice. Most commercial ice chests are about 2' high. It, therefore, is a necessary structural feature of the ice making and dispensing machine that the tray or support for the ice container be located a distance beneath the delivery chute sufficient to accommodate an ice chest.

The patent to Boulter does not disclose a device intended to make and deliver ice into an ice chest. The Boulter arrangement is simply of the usual design as found in motels or other public places which is intended to provide small quantities of ice into normal size ice containers or bags.

While the Examiner clearly recognizes that Boulter does not disclose locating the support shelf a distance beneath the ice dispenser sufficient to receive an ice chest, i.e. at least 2' as so stated in the rejection, the holding that the selection of this critical distance amounts to no more than a matter of choice is not supported and is therefore, improper. The Boulter patent makes no reference to providing an accommodation for

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an ice chest or providing a space of at least 2' between the dispenser and the shelf. Such disclosure being omitted, there can be no motivation taught to vary the location of the shelf beneath the dispenser from a position which is normal. Normal is well less than 2'.

It is further noted that claim 1 calls for the shelf to be capable of supporting an ice chest. This limitation requires that the shelf be both structurally strong enough as well as large enough to support an ice chest. Figs 4 & 6 clearly show shelf 76 extending well outwardly from recess opening 66. In Boulter, the trays are shown and described as located within vent windows 1002, 1003. See column 3, lines 47, 48. Also, see column 6, lines 36-38 and Fig 20.

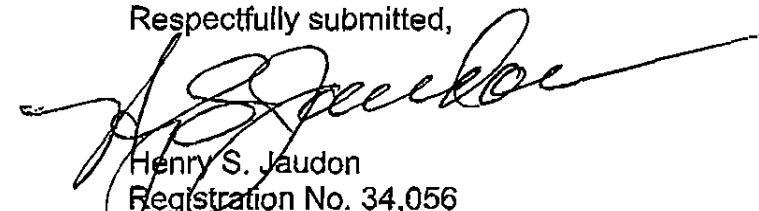
Boulter does not provide structure for carrying out or disclose a shelf function of "being capable of supporting an ice chest".

All independent claims call for the shelf to be about 2' beneath the delivery chute or as in claim 31 "providing an ice chest which is approximately 2' high and placing said ice chest beneath said chute".

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It is respectfully urged that the Examiner reconsider the reference to Boulter in view of the above remarks when examining claims 21-31.

Respectfully submitted,



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